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JAMES E. JOHNSON
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

CAROLYN K. DEPOIAN
Senior Counsel
Phone: (212) 356-2358
Fax: (212) 356-3509
cdepoian@law.nyc.gov

March 20, 2020

BY ECF

Honorable Robert J. Lehrburger
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Curtis McDaniel v. The City of New York, et al.,
19 Civ. 8735 (AJN) (RJL)

Your Honor:

I am the attorney in the office of James E. Johnson, Corporation Counsel of the City of New York, assigned to the defense of the above referenced matter.¹ Defendants the City of New York and Shirlonda Golden² respectfully request that the Court stay the present civil proceeding in its entirety for thirty (30) days in light of the recent developments surrounding the COVID-19 pandemic. Defendants City, Manzo, and Golden are to respond to the Complaint on or before April 7, 2020. See Civil Docket Sheet Entry No. 19. Pursuant to Plaintiff's Local Civil Rule 33.2, defendant must respond to standard interrogatories and document requests by March 23, 2020.

By way of background, plaintiff Curtis McDaniel, who is proceeding *pro se*, filed the Complaint in this action on September 20, 2019, alleging that Department of Corrections ("DOC") officers failed to intervene and protect him from an attack from another inmate. See Civil Docket Sheet Entry No. 1. Upon information and belief, plaintiff is currently incarcerated at the Bare Hill Correctional Facility. See Civil Docket Sheet Entry No. 20.

¹ Please take further notice that this case is assigned to Assistant Corporation Counsel Jessica C. Engle, who is presently awaiting admission to the Southern District of New York and is handling this matter under my supervision. Ms. Engle may be reached directly at jengle@law.nyc.gov.

² Upon information and belief, and according to the Civil Docket Sheet, the individual identified in the Complaint as Sonia Manzo has been served with process, however, this Office has yet to make a decision regarding the representation of Sonia Manzo and this request is not made on her behalf. The Department of Corrections has been unable to identify the individual identified only as "Gordon" in the Complaint.

As the Court is aware, the country is currently grappling with the COVID-19, or coronavirus, pandemic. On March 7, 2020, Governor Andrew Cuomo declared that New York is in a state of emergency because of the rapidly developing pandemic situation. On March 13, 2020, Mayor Bill de Blasio followed suit, and declared New York City to be in a state of emergency as well.

That same day, the United States District Court for the Southern District of New York (“Southern District”) issued Standing Order 20 MISC 138, which encouraged individual judges to conduct court proceedings by phone and video conferencing where practicable. Also on March 13, 2020, the Southern District issued Standing Order 20 MISC 015, which suspended and tolled service of process requirements and deadlines. On March 16, 2020, the Southern District issued a Revised Standing Order further limiting access to courthouses.

In light of pronouncements from government and judicial officials, associated policies, expert recommendations, and the further spread of COVID-19, the New York City Law Department, along with the majority of employers in New York City and State, has advised that individuals should work from home as much as is practicable to ensure compliance with public policy directives, and to protect individuals from further community spread of the virus.

Of course, working from home creates a number of challenges that directly impact litigation, especially in terms of corresponding with incarcerated *pro se* plaintiffs. Corresponding with incarcerated *pro se* plaintiffs is particularly difficult in the context of a work from home situation, because the normal course of communication with these individuals is through regular mail. Defendants are not physically present to receive mail sent to the office, and therefore are unable to reliably receive correspondence from incarcerated *pro se* plaintiffs. Moreover, working from home complicates sending correspondence to incarcerated *pro se* plaintiffs, as it requires defendants to venture out to local post offices to send correspondence, and thus undermines efforts to keep individuals at home.

For the reasons set forth above, this Office respectfully requests that the Court grant a stay of the instant litigation for thirty (30) days in light of the developing situation surrounding COVID-19. This will give this Office the time and opportunity needed to adjust to these new circumstances.

Thank you for your consideration.

Respectfully submitted,

Carolyn K. Depoian /S/

Carolyn K. Depoian
Senior Counsel

cc: Curtis McDaniel
NYSID: 0047425R
B&C No. 3491901551
Bare Hill Correctional Facility
Caller Box 20
181 Brand Road
Malone, NY 12953

All deadlines are extended
by 30 days. The case
is not stayed.

SO ORDERED:


HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

3/20/2020